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The State of South Carolina



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June 1, 1987

The Honorable B. L. Hendricks, Jr.
Member, S. C. House of Representatives
530-C Blatt Building
Columbia, South Carolina 29211

Dear Representative Hendricks:

Your letter to Attorney General Medlock of May 12, 1987 has been referred to me for response. In your letter to the Attorney General, you noted that the provisions of S. C. Code Section 52-17-10, et seq., do not regulate the times or days on which the game of bingo may be played. Thus, you posed the following question:

"May a municipality, by ordinance, regulate the times and days on which the game of bingo may be played?"

I enclose, for your information, a copy of the S. C. Supreme Court's decision in the case of AmVets Post 100 v. The Richland County Council, et al., 280 S.C. 317, 313 S.E.2d 293, (1984). As you will note, the Court, citing the relevant language of Section 12-21-2590, CODE, holds that the State has not preempted the regulation of bingo by counties or municipalities.

The question then becomes whether, in light of the provisions of the general bingo law, Section 52-17-10, et seq. CODE, a municipality may enact an ordinance which regulates the times and days on which bingo may be played. In other words, would such ordinance conflict with any provision of Section 52-17-10, et seq. For, if any conflict exists, the ordinance would not be lawful. See: Section 5-7-30, CODE; 56 Am.Jur.2d. Municipal Corporations, Section 374, wherein it is stated:

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"The mere fact that the state, in the exercise of the police power, has made certain regulations does not prohibit a municipality from exacting additional requirements. So long as there is no conflict between the two, and the requirements of the municipal ordinance are not in themselves pernicious, as being unreasonable or discriminatory, both will stand. The fact that an ordinance enlarges upon the provisions of a statute by requiring more than the statute requires creates no conflict therewith unless the statute limits the requirement for all cases to its own prescription.... Unless statutes are contradictory in the sense that they cannot coexist, they are not deemed inconsistent because of mere lack of uniformity in detail." (at pp.408-409).

An examination of Section 52-17-10, et seq., indicates that, except for the provisions of subsection (2) of Section 52-17-20, the statute is silent on the times and days on which bingo may be played. Subsection (2) contains a proviso which designates certain areas of the State as "county fairs" during certain times of the year, thus allowing bingo to be played in these areas during the designated times.

As the provisions of Chapter 17 of Title 52 make no other reference to the times and days on which bingo may be played, it would appear that a municipality, not situated in the areas described in the proviso of subsection (2)¹, may enact an ordinance to regulate the times and days on which bingo may be played. Therefore, it is the conclusion and opinion of this Office that, with the possible exception of any municipality situated in the areas of the State

¹The proviso of subsection (2) of Section 52-17-20 may allow even a municipality situated in the described area of Horry County to regulate the times and days on which bingo may be played. The exception contained within the proviso regarding Horry County seems to allow such a municipality to do so by the enactment of ordinances or zoning laws which control or prohibit county fairs.

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described in the proviso of subsection (2) of Section 52-17-20, CODE, a municipality may, by ordinance, lawfully regulate the times and days on which bingo may be played.

I trust that you will find this information to be responsive to your inquiry. Please advise me if I can be of further assistance to you.

Very truly yours,

Wilbur E. Johnson

Wilbur E. Johnson
Assistant Attorney General

WEJ/fc
Enclosure

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